

17th May 1954] [Sri C. Subramaniam]

“The Act is being amended in order to remove this doubt and there can be no possible objection to this Bill.” 9-40 a.m.

SRI M. KALYANASUNDRAM :—“கனம் சபாநாயகர் அவர்களே, இந்த மசோதாவுக்கு ஆட்சேபணை ஒன்றும் இருக்கமுடியாது. இதே மாதிரியான ஜனநாயக உரிமையைத்தான் நாங்கள், ராணுவத்திலிருக்கக் கூடிய சிப்பந்திகளுக்கும் அரசாங்க சிப்பந்திகளுக்கும் கொடுக்கவேண்டுமென்று சொல்லுகிறோம். இந்த நாட்டில் பிறந்த ஒவ்வொரு பிரஜைக்கும், நாட்டு மக்களின் நலனுக்காக உழைக்க வசதியும் சட்டசபை தேர்தலுக்கு நிற்கக்கூடிய உரிமையும், இருக்கவேண்டுமென்பது எங்கள் நோக்கம். எங்கள் அடிப்படையான நோக்கமே இதுவாகையால், இந்த மசோதாவை ஆட்சேபிப்பதற்கு நாங்கள் தயாராக இல்லை.”

MR. SPEAKER :—“The question is—

‘That the Madras Payment of Salaries and Removal of Disqualifications (Amendment) Bill, 1954, be taken into consideration at once.’”

The motion was put and carried.

Clauses 2, 1 and the Preamble were put and carried.

THE HON. SRI C. SUBRAMANIAM :—“I move—

‘That the Bill be passed into law.’”

MR. SPEAKER :—“The question is—

‘That the Madras Payment of Salaries and Removal of Disqualifications (Amendment) Bill, 1954, be passed into law.’”

The motion was put and carried and the Bill was passed into law.

(2) THE MADRAS COURT-FEES AND SUITS VALUATION BILL, 1954.

THE HON. SRI C. SUBRAMANIAM :—“Sir, I beg to introduce the Madras Court-fees and Suits Valuation Bill^a, 1954, and move—

‘That the Bill be referred to a Select Committee consisting of the following members :—

The Hon. Sri M. A. Manickavelu Naicker.

Sri K. P. Kuttikrishnan Nair.

„ K. Parthasarathy.

„ K. Venkataramana Gowda.

„ N. Gopala Menon.

„ P. Selvaraj.

„ B. Vaikunta Baliga.

„ V. R. Nagarajan.

„ Kunhi Mohamed Shafee.

„ M. Narayana Kurup.

^a Published in the Fort St. George Gazette, dated 6th May 1954.

[Sri C. Subramaniam] [17th May 1954]

Sri S. Ramalingam.,, *P. K. Gopalakrishnan.*,, *P. Rangaswami Reddier.*,, *E. L. Raghava Mudaliar.**and the Mover (the Hon. Sri C. Subramaniam).*

“ The Court Fees Act was enacted more than 80 years ago. Except for piecemeal amendments to the Act made by the Government of India and the various State Governments to suit the exigencies of the occasion or to increase revenue, the Act has not been amended to keep pace with the changes made in other enactments like the Civil Procedure Code, 1908, or to suit modern conditions. The application of the old rules to altered facts and the extension of the rules to cover new cases have resulted in a jumble of statutory and case law which, at many points, is indefensible on principle and is a source of all-round inconvenience. The Suits Valuation Act, 1887 (Central Act VII of 1887) makes its own contribution to the incongruities with which this branch of the law abounds. Rationalization of the law relating to Court-fees and suits valuation has, for the last 20 years, been regarded as an urgent measure of judicial reform. In 1938, this Government appointed the late Sri Satyamurthi of the Madras High Court on special duty to submit his recommendations for a complete revision of the Court Fees Act. He submitted his report in 1939. It was examined in the Secretariat in consultation with the High Court and the Board of Revenue. Legislation could not however be undertaken as war broke out. The whole question was re-examined by the Special Officer who was appointed for the purpose and the orders of Government taken on the various proposals made. A tentative draft Bill was prepared and referred to the High Court, the Board of Revenue and the Advocate-General for remarks. Rules relating to court-fees and rules relating to valuation of suits are so interconnected that it has been found expedient to have both sets of rules enacted as parts of a single Act. It is intended to replace the existing Court Fees Act, 1870, and the Suits Valuation Act, 1887, in their applicability to this State. The important provisions made in the Bill are—

(1) At present the Court Fees Act, 1870, does not apply to cases coming before the High Court in the exercise of its Original Side Jurisdiction and to appeals from the Original Side except to the extent specified in section 3. The court fee leviable in such cases is determined under the High Court Fees Rules. The High Court has already amended the High Court Fees Rules, 1933, applying the provisions of the Court Fees Act to the Original Side of the High Court and to appeals therefrom. The Bill gives effect only to what the High Court has already done.

(2) Detailed provisions have been made in Chapter III of the Bill for the ascertainment and levy of proper fee so that the fee leviable in a suit is not made to depend on the party's cleverness in manipulating allegations or finding adroit language for relief.

17th May 1954] [Sri C. Subramaniam]

(3) Chapter IV of the Bill prescribes the method of computation of fees. Different types of suits are dealt with independently in separate clauses and situations which are likely to arise in each class of suits in relation to the different claims that might be made in such suits are dealt with separately in sub-clauses. Payment of court-fee is made obligatory not merely by the plaintiff who institutes the suit but also by every defendant who seeks and obtains affirmative relief. In partition suits every defendant who asks for a determination of his share on a final decree for such share will have to pay court-fee. Similar provisions have also been made in respect of partnership suits, administration suits and the like. In prescribing rates of fee, care is taken to see that mere alterations in language of allegations or relief do not result in any difference in the rate of fee payable. Specific provisions have also been made for the levy of fees in suits relating to trust property, third-party proceedings, inter-pleader suits and in suits under the Madras Survey and Boundaries Act, 1923. Fee is made payable in appeals on the same principles as in suits.

(4) In respect of suits for the possession of immovable property the Court Fees Act lays down different criteria for different kinds of property. While in the case of a building or garden, fee is computed on the market value of the house or garden, in the case of land the computation of fee is on a multiple of the assessment. The method of valuation prescribed on a multiple of assessment dates back to the time when such valuation was a fair approximation to the market value of the land. The market value of land has gone up tremendously in recent years. The arbitrary provisions in section 7 (v) have resulted in the *reductio ad absurdum* that a suit for a part of a field may pay a higher court-fee and require to be tried by a court of higher jurisdiction than a suit for the whole. In addition, the varying ratios of value of land to assessment make the fees arbitrary and uneven, while suits for land, though they are generally more hotly contested than suits for money or movables, pay a lower court-fee than the latter do. The market value of land has therefore been adopted as the basis for computation of court-fees.

(5) Under paragraph (iv) of section 7 of the Court Fees Act, plaintiffs are authorized to value suits of various classes according to their discretion, and this discretion has been widely abused. Courts seem to be powerless to compel a plaintiff to revise an unreasonably low valuation and pay the proper court-fee. Similarly Articles 17-A and 17-B of Schedule II to the Court Fees Act provide for a fixed fee for a variety of suits, some of which, e.g., adoption suits, suits for a declaration of title to property and administration suits, are clearly capable of valuation. These anomalies have been removed and *ad valorem* fee is made payable in such suits.

(6) Chapter V of the Bill provides for the valuation of suits. At present the valuation of suits is governed by the provisions of

[Sri C. Subramaniam] [17th May 1954]

the Suits Valuation Act, 1887, section 14 of the Madras Civil Courts' Act, 1873 and section 13 of the Madras City Civil Court Act, 1892. The Suits Valuation Act has been responsible for a number of anomalies and incongruities. The detailed provisions made in Chapter V of the Bill have been so framed as to give finality to litigation on any subject-matter. The decision of suits of larger value by courts of limited jurisdiction is avoided by prescribing that the value of a suit in a case would be the value of the entire property in partition suits, partnership suits, administration suits and the like. It has also been made obligatory on the court to determine issues regarding court-fee and valuation before proceeding to frame issues on the merits of the claim.

(7) The provisions in Chapter III-A of the Court Fees Act, 1870, dealing with court-fees payable on probates and letters of administration were introduced piecemeal and as such there is a certain amount of overlapping of provisions. This chapter has been entirely redrafted.

(8) The provisions relating to refund have been liberalised by enabling the refund of half the court-fee to be made in a case where a suit is settled before issues are framed or evidence is recorded on the merits of the claim. This is a concession which at present is enjoyed only by litigants in Madras City.

(9) At present a fee of $7\frac{1}{2}$ per cent is levied in the case of suits of a small cause nature if the value is below Rs. 500 and in small cause suits if the value exceeds Rs. 500 and at the rate of $11\frac{1}{4}$ per cent in original suits up to Rs. 1,000 in value. In original suits above Rs. 1,000 in value, the *ad valorem* fee leviable is $11\frac{1}{4}$ per cent on the first 1,000 rupees and on a regressive scale ranging from $7\frac{1}{2}$ per cent to 0.6 per cent on the remaining amount. A large majority of suits in Munsifs' courts are suits for money and a large majority of those suits are for the recovery of debts. The issues arising in a suit on a promissory note and in a suit for the recovery of debt by sale of mortgaged property may be of the same kind; and where the money is not paid, attachment and sale of property in execution of the decree on the promissory note might be more protracted than the sale of the property in enforcement of the mortgage decree. While in the former case a person pays a fee computed at $7\frac{1}{2}$ per cent, in the latter case the fee payable is $11\frac{1}{4}$ per cent. The disparity in fee cannot be justified. Further, as suits against debtors are instituted because of their inability to pay, it seems a hardship to add to their already heavy liability a large sum by way of court-fee. On the other hand, there does not appear to be any justification for levying a lower rate of fee in respect of litigation above Rs. 5,000 in value. The Bill therefore provides for the levy of *ad valorem* fee at a uniform rate of $7\frac{1}{2}$ per cent. The advantage of having a flat rate is that the poorer classes of litigants would be benefited considerably while the richer classes who are let off lightly now will pay more.

17th May 1954] [Sri C. Subramaniam]

“ In this connection, I wish to pay my tribute to my predecessor in office Sri K. P. Kuttikrishnan Nair who has taken great pains in finalising the draft of this Bill. I desire that the Select Committee will go through the various provisions very carefully and submit its report before long so that it may be considered at the next sitting. Therefore, I move that the Bill may be referred to a Select Committee consisting of the persons whose names I have already mentioned.”

9-50
a.m.

MR. SPEAKER :—“ Motion moved—

‘ That the Madras Court-fees and Suits Valuation Bill, 1954, be referred to a Select Committee.’ ”

SRI M. NARAYANA KURUP :—“ Sir, I move—

‘ That the Madras Court-fees and Suits Valuation Bill, 1954, be circulated for eliciting public opinion.’ ”

The motion was duly seconded.

MR. SPEAKER :—“ The motion as well as the amendment is before the House for discussion.”

* SRI M. NARAYANA KURUP :—“ Sir, it has been stated in the statement of objects and reasons and also repeated by the Hon. Minister who introduced this Bill that it is a judicial reform which was in contemplation of the Government for the last 20 years. It has been also stated that the object of the Bill is to make its provisions uniform, logical and coherent. I submit, Sir, though the subject-matter of the Bill has been under examination for the last 20 years, this is a very poor specimen and if it is passed as it is brought today it will not justify the objective that is mentioned in the statement of objects and reasons. Sir, we agree that the Court-fees and Suits Valuation Acts contain more anomalies than any other enactments now existing. But substituting one anomaly for another is not doing away with anomalies.

“ Sir, we used to praise the judicial system which we have inherited from the British. But some of its important weaknesses are lost sight of. The most important thing is that litigation as it is today has become the luxury of the rich and it is the longest purse that ultimately wins the race. Therefore, when we want to remove the anomalies of the existing system, it should be one of our prime considerations that justice is made available to the average man and that it is not made too costly. I must confess, Sir, on reading through the Bill I see that it does not partake of any thing of a judicial reform, but Government think of it purely as a taxation measure. That is one of the fundamental objections to the Bill. The judicial system as it is obtainable today is highly technical, involved and complicated so that the average man is unable to get justice, unless he is prepared to spend large sums of money on that score.

[Sri M. Narayana Kurup] [17th May 1954]

(At this stage Sri A. Ramaswamy Tevar occupied the Chair.)

" Then the Hon. Minister said that adroit language should not be utilised to deprive the Government of legitimate fees on plaint. Sir, the principle that has been accepted for long is that *prima facie* allegations in the plaint determine the court-fee. That does not mean that courts were powerless. It was always open to the court to look into the substance of the allegation and levy court-fee according to that and the courts have been doing so. Now what has been done is this: Even now, adroit language has a bearing on court-fees, with this difference that it is on the adroitness of the defendant. In many of the clauses that are now included in the Bill the court-fee is to be determined on issues framed in the suit. We know issues arise from pleadings and it is up to any defendant to raise untenable pleas to bring a suit on title or on lease of immovable property and the defendant may deliberately deny the plaintiff's title in which case the plaintiff has to pay court-fees based on title. Even in respect of recovery of documents a person may steal away a valuable document from me and when I sue for the recovery of the document, it will be open to him to say that I have no right to the money that is secured by the document and I am asked to pay court-fee *ad valorem* as is mentioned in this Bill. Therefore, what the Government has now done is only to shift the use of adroit language to the defendant and in that way ask the plaintiff to pay excessive court-fee, irrespective of any other consideration. I would submit, Sir, the old principle should continue and the courts levied as a matter of fact court-fees in spite of the fact that the particular plaint was clothed in any particular language.

" Then, another important matter which I would refer to is the change in the nature of the market value of the property. We know, Sir, that people when they want to institute a suit must have some idea of the court-fee that they will have to pay. Now, if the definition of calculation of market value as is prescribed in this Bill is to be accepted, no man can say definitely or even vaguely what the court-fee that he will be liable to pay is. Because, when a plaint is presented the Ministerial Officer will be entitled to say that it is not the correct court-fee and that it will have to be determined before a plaint is taken on file. We know, Sir, that in some suits it is not the ultimate relief that is granted which is more important, but there are interim reliefs which, if denied, may defeat the very purpose of the suit. Then again, Sir, in every suit a Commissioner will go to investigate and to assess the market value of the property. We know what room for abuse will it give if the calculation of the market value is made dependant in every case on the assessment of the Officer and the Commissioner who are to fix it. Then, Sir, it was said that according to the previous Bill the calculation as assessed was 10 times the revenue and in other cases it was done according to the

17th May 1954] [Sri M. Narayana Kurup]

market value of the building or unassessed lands. The Hon. Minister pointed out an anomaly that if a portion of a survey number was involved, they will have to pay the market value and not 10 times the revenue which may sometimes be higher than the whole revenue for the entire survey number. It can easily be remedied by the Government by bringing forward a proper amendment to remove that difficulty. Now a grēater defect is noticed with all the attendant uncertainties and hardship to the litigant public. There must be some definiteness *prima facie* as to how the market value of the property involved in a suit has to be calculated.

“ It is good that the dispute regarding court-fees is settled before the final trial of the suit. But what we find is to the contrary. A dispute regarding this issue, after being settled in one way in the Lower Court is taken in first and even second appeal to the higher courts and even to the High Court. The High Court may perhaps set at rest the valuation of court-fee. The court-fee examiners of the High Court may upset all the decisions of the judicial bodies and the High Court and courts will be called upon to review the whole matter once again. I submit that it is an unwarranted and unjust procedure.

“ The Hon. Minister said that the court-fee payable on suits must have some relationship to the time taken, the principle involved and the importance of the case. With reference to another issue, he said that it must be on the face value or money value. The distinction in the scale of court-fee with respect to small causes and original suits was a well-thought-out distinction, because the relief which one may get in a mortgage or promissory suit worth Rs. 100 is not the same. We know in suits relating to promissory notes and small causes, we get only summary relief, and two, three or even a dozen cases are disposed of daily. But, in a mortgage suit, the party's title to the property, his right to mortgage the property and so many other complicated issues come up before the Court. He has got a right of appeal and second appeal also. Therefore, it is but just that for those who go to court for summary relief, which is not the same as that in the original suits, a smaller fee must be levied.

“ I have already referred to the court-fee payable on the recovery of documents. I submit that the provision relating to this matter requires a radical change. What we are doing is not deciding any claim with respect to immovable properties or other things. The section as it stands lends support to anomalies and untenable pleas to be put in by the defendant, and the plaintiff is asked to pay court-fees which he is not likely to recover from the defendant. In the Statement of Objects and Reasons, it has been said that on disputes of equal value the parties should pay equal court-fee. I would submit that that principle has not been observed in drafting the Bill. Take for instance adoption cases.

[Sri M. Narayana Kurup] [17th May 1954]

In respect of these cases, half the market value of the property is to be paid. I submit that what is decided there is only the status of the man and not that of the properties that are to be enjoyed by him. Therefore the payment on half the market value as court-fee is very excessive. Take for instance disputes between trustees, managers, etc., of a particular endowment. They are definitely disputes relating to properties which they have to manage. In these cases, I think the court-fee payable is one-fifth of the value of the disputed property. I do not see how it is logical. In respect of adoption cases, they say half the market value of the property should be paid as court-fee and in respect of other cases they say that one-fifth of the value of the disputed properties has to be paid as court-fee.

“ Then, with regard to scheme suits under section 92 of the Civil Procedure Code, we have to pay only the maximum fee of Rs. 50. Even in the case of managers, the maximum is only Rs. 200. The idea or principle enunciated that on disputes of equal value they should pay equally in the matter of court-fees has not been followed in the sections that have been incorporated in the Bill.

“ There are a number of other provisions by which the court-fee payable has been increased to a very large extent. In most of the cases we have to pay a minimum court-fee of Rs. 37-8-0, as Rs. 500 has been fixed as the minimum. If a document worth Rs. 25 is taken away from me and if I have to get it back through a Civil Court, I have to pay a court-fee of Rs. 37-8-0. I think this is not correct. By carefully reading all these provisions contained in the Bill we come to the irresistible conclusion that the Government have treated this as a taxation measure and are trying to get as much revenue as possible from this measure.

(The Deputy Speaker occupied the Chair at this stage.)

“ The Hon. Minister said that it has been considered for a long time and it was referred to the High Court and also to the Board of Revenue. But I believe that those are not the only persons who are concerned with this Bill. The litigant public, the Bar Association and the courts are legitimately entitled to express their opinion on the measure which of course is conceded to be a very important measure and also a very complicated measure that requires expert advice and scrutiny. In respect of similar important measures like the revisions of the Criminal Procedure Code and the Company Law, those Bills were published six months before the Bills were actually introduced in Parliament. Some more time was taken by the Select Committees to consider those Bills. As a result of all these, it was possible for the public to make representations. There is no urgency about this Bill. It has waited for 80 years or so. Nothing will be lost by circulating this Bill to elicit public opinion. Persons interested—judicial officers, Bar Associations and lawyers—From their

17th May 1954] [Sri M. Narayana Kurup]

practical experience will, I believe, be able to contribute valuable suggestions in the matter of improving this Bill. Therefore, I submit that full opportunity must be given to them. With these words, I request the Government to accept the amendment that I have moved for circulating this Bill to elicit public opinion."

* SRI P. RANGASWAMI REDDIAR :—" Mr. Deputy Speaker, Sir, the objects and aims of the Bill are not either to minimise expenditure on litigation or to help *bona fide* litigants who go to courts of Law for obtaining justice, but it is only a detailed draft making provisions in the Court Fees Act and Suits Valuation Act under one and the same statute and the same time the drafting has been aimed at to get the maximum revenue from the litigant public, so far the State is concerned. I am told in certain countries—I think it is in the United Kingdom—invariably all civil causes are charged with the institution fee of 30 shillings only to begin with and when the cause is filed, the fee payable is only 30 shillings; afterwards according to the nature of the work and the time taken by the courts, fees are charged and collected for each suit. I am wondering whether such a method cannot be adopted in enacting this Court Fees Act, so that people who take more time in courts may be taxed more than people who take lesser time. It cannot always be said that the time taken by the courts is commensurate with the value of the suits. For instance, if a suit on a promissory note is filed or a suit upon a mortgage is filed for Rs. 3,000 or Rs. 10,000 and if the defendant does not come forward and contest, then the suit is proceeded *ex parte* and if the defendant admits the claim then the time taken by the court would be only a few months in disposing of the suit. On the other hand, in a suit filed on a promissory note, if the defendant comes forward and contends that it is a forged promissory note and the promissory note be sent to experts, at times one expert and at others two or three experts, then the time taken by the court would be more than two or three days or even more. In such cases, it cannot be said that a nominal court-fee is sufficient. More fees may be charged. It would also incidentally be helping people by indirectly preventing them from putting forward undesirable and unfounded defences. These things may be taken into consideration by the Select Committee and if possible, a comprehensive Bill, that is, a Bill to charge nominal fees only at the time of institution and subsequently to collect fees according to the time taken and the nature of work involved in the suit, may be brought forward.

10-10
a.m.

" There are certain exemptions mentioned in the Bill. For instance, so far as 'refund on settlement before hearing' is concerned, it is not happily worded. Supposing, in a suit, the parties put forward a draft compromise and the compromise is recorded, even in such cases court-fees should be refunded. It should be made clear without giving further scope for interpreting it in all sorts of ways, so that there may be less strain upon this section.

[Sri P. Rangaswami Reddiar] [17th May 1954]

" So far as the valuation of immovable properties is concerned, hitherto the practice was that immovable properties were valued under the Court Fees Act at 10 times the kist payable on the said properties. For an acre where the kist is Rs. 7-4-0 or Rs. 7-14-0 the market value was about Rs. 3,000 or so previously. The kist was fixed at the time of settlement on the basis of half-the net-income principle. The Hon. Minister for Revenue introducing the Bill said that circumstances have changed and the market values have gone high and therefore necessarily, the court-fees also should be revised. But according to the present Bill, for properties worth Rs. 3,000, hitherto the court-fee payable was below Rs. 10 or Rs. 11. Hereafter, it would be Rs. 225 and this increased burden can only fall on the litigant public. I think there should be change in court-fees only on higher values.

" So far as the jurisdiction fee is concerned, in the cases of partition suit hitherto the jurisdiction value was fixed with reference to the share of the plaintiff. Now it is provided irrespective of the value of the share of the plaintiff. This would work great hardship on the public. For instance, the lawyer's fees are paid upon the jurisdiction value. If a member of a joint family has an interest, say, one-sixteenth share of properties worth Rs. 45,000 then hitherto, the valuation was fixed at one-sixteenth of fourty-five thousands for the purpose of lawyer's fees also. This valuation is taken away under the new Bill, and only Rs. 45,000 should be the value that should be given to the plaint, that is, under the changed Bill, the plaintiff will have to pay as lawyer's fee on Rs. 45,000 instead of on about Rs. 3,000 or less than that. This would not only be a hardship in the first instance to the plaintiff, but subsequently to the defendant also who has to pay costs including lawyer's fees in case the suit is decreed. Therefore, the provisions that existed till now may be incorporated in this Bill also, as there cannot be any necessity for this change.

" So far as documents and other movables are concerned, if a sale deed or any other deed is lost and a suit is to be filed to recover these documents, it is absurd to say that the market value of the property comprised in the deed should be fixed or the amount mentioned in the document should be fixed for the purpose of valuation of the suit. Because no value attaches to the document itself that is to be recovered and it has only a title value it should be classified in the list of movable properties and there should be only a nominal fee charged for it.

" Lastly cases are decided *ex parte* and cases are also decided when the opposing party comes forward to the court and confesses to the claim. In such cases, I think the time involved in court is very little and also the amount of work done by the court is very small. Therefore, in such cases, as in cases of fees chargeable by the legal practitioners under the Legal Practitioners Rules, the court-fees should be fixed at some scale for *ex parte*

17th May 1954] [Sri P. Rangaswami Reddiar]

suits and some scale for suits decided on admission by the defendants. For, it would really help *bona fide* litigants. For instance, if a person is really unable to pay the amount due on a pro-note executed by him and if a suit is filed in a Court of Law, at the most he would require some time to repay the debt. In such cases, that is, if the case is decided on confession that he has to pay and he is ready to pay, but that he wants some time, it would not be proper to tax him the maximum court fees. Therefore, concession should be given to him especially in view of the fact that the court has no work to do and the court's time is not taken.

“ All these things may be taken into consideration and the Court Fees Act may be drafted after thorough examination having the one salient point in mind, that the *bona fide* litigant public should not be made to feel that litigation is a costly affair, that people should not be made to feel that going to Courts of Law is really a punishment and that people should not be threatened like this. On the other hand the State should be enthusiastic to render justice to the people. After all, for people, Courts of Law are the last resort and they go there to get justice and in the administration of justice, the State should not aim to get the maximum revenues from the people who go there, but the State should have it in view that it is their duty to help persons who have real grievances and cause to go to Courts, and enable them to get justice with the minimum of inconvenience and minimum of expenses.”

* SRI S. VENKATRAMA AYYAR :—“ Mr. Deputy 10-20
Speaker, Sir, this Bill which is sought to be placed on the Statute a.m.
Book certainly deserves our support and I must congratulate the Government on bringing forward this measure. After nearly 80 years of the framing of the two Acts, the Court Fees Act (Act VII of 1870) and the Suits Valuation Act of 1887, this amending Bill has come. Both these Acts in their practical working have given rise to a number of conflicting decisions involving of course hardship in several cases. There are certain salutary provisions in favour of the suitors and there are also provisions which are against the interests of persons who go to courts. At any rate, it will produce this salutary effect, viz., that an attempt is made to consolidate both the Acts for certain purposes in respect of suits mentioned in the Court Fees Act of 1870 with reference to section 7, paragraphs 5 and 6 and paragraph 40, etc. We have to follow the provisions of the Suits Valuation Act with reference to *ad valorem* fee as provided in the Court Fees Act and the former Act, as is said in the Statement of objects and Reasons thus makes its own contribution to the incongruities with which this law abounds. We are now attempting to consolidate all the provisions relating to the fixing of court-fees, whether the cases are of the class mentioned in clause 7 of the Bill or otherwise. What is the present position with regard to suits filed in inam, zamin and ryotwari areas? As one having practical experience of what obtains in these areas in the Pattukkottai taluk of Tanjore district,

[Sri S. Venkatrama Ayyar] [17th May 1954]

I would like to point out that so far as the ryotwari tenure is concerned, we have been paying for suits for injunction—if it is a full survey number—half of ten times the revenue assessment by way of court-fee. If it is a portion of the survey number, we are asked to pay a fee calculated with reference to the full market value of the land. This is anomalous. When we are asked to pay only half of ten times the assessment in respect of full survey numbers, it does not stand to reason if we are asked to take into consideration the entire market value in respect of parts of survey numbers, full fee in the case of possession suits and half for injunctions. To that extent the position is, as I have already said, anomalous. But now we are asked to take into consideration the full market value of the land, whether it is part of a survey number or otherwise and whether it is for possession or injunction. As compared with the original position, this is not a welcome provision.

“ With reference to inam and zamin villages, we were paying at the rate of fifteen times the mesne profits. After the Zamindari Abolition came into force (Act XXVI of 1948), we are asked in some courts under section 23 of the Act to take into consideration provisional assessment as the basis, and in some other courts, the market value. The survey and settlement work is not yet over. Settlement is to be effected and after it is effected the final ryotwari assessment will be known. When we take into consideration the provisional revenue as fixed under section 23, it is really better than the basis of market value.

“ Then, with reference to private lands, we have a recent decision of the High Court that the assessment as levied under section 23 (b) of the Abolition Act on private lands is not tenable and legal and so void. There is discrimination here. When we follow the principle, viz., fifteen times the mesne profits in respect of inam and zamin villages, this Bill says that the market value of the private land should be taken into consideration. This anomaly should be corrected.

“ As regards partition suits, as was observed by an hon. Member on the other side, if the plaintiff's share is less than Rs. 3,000 the suit should be instituted in the munsif's court and the fee for this purpose is Rs. 15. But if it is more than Rs. 3,000, he has to go to the sub-court or the district court. This is under the existing law. If in a case where the plaintiff claims a share of Rs. 3,000 in an estate worth Rs. 21,000 and if the shares of the other two persons are Rs. 6,000 and Rs. 12,000 and are not separated, the suit has to be instituted in a sub-court or a district court and the decision by the munsif is not binding here. The present Bill makes it compulsory for all such cases to be instituted in a sub-court or district court even though the value of the share of the plaintiff might be Rs. 3,000 or less. This is a salutary provision.

“ Then, Sir, consistent with the policy of taxing rich people, Government have provided for a uniform rate of levy of $7\frac{1}{2}$ per cent. We do not make any distinction here between rich people

17th May 1954] [Sri S. Venkatrama Ayyar]

and the poor. This relief will produce a good psychological effect on the suitors, whether the property is worth Rs. 500 and whether it is mortgage or promissory note that is the subject-matter of the suit. So far as the middle-class people are concerned, this is certainly a great relief. But when we come to certain other provisions we find certain provisions which will work hardship on the suitors. I have referred to a few of these already. There is a provision in the Bill, clause 25 (b), which says that in a suit for possession of documents of title where the plaintiff's title to the money or the property secured by the document is not denied, fee shall be computed on the amount at which the relief sought is valued in the plaint or on Rs. 500, whichever is higher. On the face of it, it looks as though the Government want to make some revenue out of this provision when they fix this higher denomination. If they had said fee should be computed on the amount at which relief sought was valued, it would be good to that extent. But when they fix Rs. 500 and say 'whichever is higher' it is a thing to be strongly objected to. I would submit that the Government may be pleased to say 'on the amount at which relief sought is valued or Rs. 500 whichever is less'. That will be a sort of relief to the person who goes to court. Our object should not be to get some revenue by prescribing this rule when we attempt to consolidate both the Acts and remove some anomalies. I would request that the Select Committee which will go into this Bill will thoroughly examine all the special provisions bearing in mind that it should serve as a sort of relief and not as a taxing burden on persons who go to court whether they are poor or rich or belong to the middle class. Litigation must not be made more costly. We must give some relief to people who *bona fide* go to courts."

* SRI T. C. NARAYANAN NAMBIAR :—“ Mr. Deputy 10 30
a.m.
Speaker, Sir, I know the Hon. Minister for Finance will be surprised when a layman like me, a poor elementary school teacher, speaks on a Bill to amend and consolidate the law relating to court-fees and valuation of suits. In this connection the first thing that I have to express is that the laws and rules in our country are so complicated and ununderstandable that the ordinary man-in-the-street cannot understand them. It is a well-known fact that nearly 80 to 90 per cent of the people of our country are illiterate. The laws are so ununderstandable and litigation is so costly that poor people cannot get justice under this 'democratic rule'. In Malabar there is the saying 'just like the French punishment'. It is said that in French courts the accused as well as the plaintiff used to be fined, with the result that litigation was much less in French courts. If poor people are compelled to pay heavy court-fees, they may not go to courts and seek justice from the Judges. I request the Hon. Minister for Finance, who is also the Minister for Law, to see that the Bills are framed in very simple language so that even an ordinary man can understand the Acts and argue his case himself in the court. I would invite the attention of the Hon. Minister to the fact that in the

[Sri T. C. Narayanan Nambiar] [17th May 1954]

People's Democratic Republic of China after it attained independence, there are three great laws. One is with regard to trade union activities, the other is with regard to marriage and the third is with regard to agrarian reforms. The laws are so simple and understandable that even an ordinary peasant can understand them and argue his case himself in a court of law. When Britishers were ruling this country directly, we know that there were only a very few people who could understand the laws. It will be a great thing if we can get one vakil or advocate in one taluk or even in one district. Now we want the ordinary citizens to participate in the day-to-day deliberations of the State. It is the bounden duty of the State to see that the Acts are written in a simple way and the cost of litigation is kept very low. The valuation of suits has been so much enhanced in this Bill that an ordinary man will not be in a position to pay the heavy court-fee and go to court. I hope all these points will be discussed in the Select Committee properly.

“The hon. Member Sri M. Narayana Kurup has moved an amendment for circulating this Bill for eliciting public opinion. It is a sin of our Government that they have not given education to all the people in our State, and the people could not understand the laws of this country. If this Bill is circulated for eliciting public opinion, ordinary people will participate in the discussion, get some tuition or coaching from learned people and try to understand the Bill. Therefore, I support the amendment for circulating this Bill for eliciting public opinion.”

* DR. K. B. MENON :—“Sir, the Act that is before the House for amendment is a very old Act and needs careful going through. The amendments that are placed seem to indicate that the approach of the Government is to get more income to the Government; in other words, the Government approach this measure as a taxation measure. That approach is very unfortunate. That will be unfair to the poor litigant. Even as it is, justice is a matter of wits and wit is a matter of cost. A poor man is unable to pay and get justice in the courts. I submit that the effort of the Government should be to simplify the process of justice through decentralization or through some other measure and not to increase the expense of the litigant and thereby throw a weightage in favour of the rich. From that point of view, I feel that the approach is very unfair.

“My second submission is that the Act is a very old Act, perhaps half a century old, and that there is no urgency about a Bill to amend it. In this connection I must register the protest that the Opposition generally makes that sufficient time is not given to the Opposition for studying the legislative measures that are introduced. Even about the Madras Irrigation (Levy of Betterment Contribution) Bill that is coming up before the House to-morrow, there is no hurry. There is no reason why Members should not be given sufficient time to study the Bills and express opinion. As there is no urgency about the Bill under discussion,

17th May 1954] [Dr. K. B. Menon]

it is only right that the public are given an opportunity to express their opinion. I understood that the Select Committee that is to be appointed would meet very soon to discuss the Bill. If the Select Committee meets very soon to discuss the Bill, certainly the public will not have an opportunity to express their opinion. The Hon. Sri C. Subramaniam pointed out on the floor of this Assembly that there are Bar Associations, experienced litigants, and many among the public who are in a position to express opinion on the subject. I therefore suggest that, even if the Bill is referred to a Select Committee, sufficient time and opportunity should be given to the public to make their recommendations and suggestions to the Select Committee."

SRI E. L. RAGHAVA MUDALIAR :—" Mr. Deputy Speaker, Sir, I am quite sure that the Government will agree that this is a very important piece of legislation which they are bringing forward after nearly three quarters of a century after the previous Act. I find that the Hon. Finance Minister said in his Budget speech that he had tried to put it more on a logical basis than to earn any revenue, though it may yield a small revenue. But I find that the Bill now before us seems to have been brought forward with a view to getting more revenue. If my calculations are right, the Government must get nearly double the revenue that they are getting now, namely, Rs. 80 lakhs, I think. We have already charged that the Government is selling justice and not dispensing justice. It is said that on the face of it, it appears to be that they have given a concession. The concession they have given is that the court-fee on certain classes of suits have been reduced from 11½ per cent to 7½ per cent. But this concession applies only to suits between Rs. 500 and Rs. 1,000. In cases of suits up to Rs. 500 in certain classes there has already been the 7½ per cent rule and only in certain classes of suits, they have been levying 11½ per cent. Beyond Rs. 1,000 the existing rate is 7½ per cent and beyond Rs. 5,000 they are getting 1½ per cent more, I think. So, on the higher rates they have actually doubled the court-fee.

" Apart from this *ad valorem* court-fee, there has been abnormal increase out of proportion and completely unrelated to the existing rates. With regard to possession of immovable property, hitherto the valuation has been at ten times the revenue payable on the land. Now, it has been stated that the suit must be valued on the actual market rate. This, apart from increasing the actual court-fee, will affect the jurisdiction of the courts also and the jurisdiction of the district munsifs' courts will be disturbed very much and the work in sub-courts will be increased very much. It will result in dislocation of work.

" As this Bill is to be referred to a Select Committee, I shall reserve my detailed remarks to a later stage. But I request the Government to see that the Select Committee is given sufficient time to study the various implications of this Bill, instead of

[Sri E. L. Raghava Mudaliar] [17th May 1954]

rushing it through and making it another hasty piece of legislation. In view of the fact that the Government seem to be insisting on the Select Committee meeting at a very near date and finishing the work early, I support the amendment that the Bill be circulated to elicit public opinion."

SRI K. PARTHASARATHY :—" Mr. Deputy Speaker, Sir, I rise to congratulate the Hon. Minister on introducing the Bill. The litigant public, the lawyers and even judicial officers, have been expressing the feeling that the Court Fees Act and the Suits Valuation Act contain many anomalies and so, a thorough re-examination of the provisions of those two Acts are necessary and it had been found in experience that very many new anomalies were being brought into light every day. It was only recently that the anomaly that a suit for the recovery of the whole survey number was to be valued on a lesser amount and a suit for the recovery of a portion of the survey number had to be valued invariably at a higher amount and so, the litigant who claimed for recovery of the smaller area invariably paid higher court-fee and incidentally the matter also went to a higher tribunal, was pointed out. The Hon. the Finance Minister also pointed out this anomaly and there are ever so many other anomalies. In suits for restitution of conjugal rights as a matter of course, the plaintiff was at liberty to put his own valuation and only recently the High Court made a rule and fixed an arbitrary limit and it held that it should not be less than Rs. 200. Though many anomalies were pointed out, it was not possible to take action until now. So, it is a very needy reform and we are very glad that now our Hon. Finance Minister who is also the Law Minister has introduced this reform. There is no doubt when going through the provisions it will be found that there is an attempt at rationalisation of the court-fees in the State. The Hon. the Finance Minister said that an attempt is made to regulate the court-fees according to the time taken up by the Court and the importance bestowed on the case by the Judge. It is found that the rates fixed for suits of Small Cause nature and original suits involving recovery of money due on mortgage are the same. Some of the hon. Members pointed out that even though this is proposed to be a law reform, it is incidentally a taxation measure. But I can say that even though in effect it may be that it brings in additional revenue to the Government, there are some provisions which impose on the litigant public a lesser amount of tax. For example, if there is a suit for the recovery of Rs. 1,000 on a mortgage bond, we have to pay only a lesser court-fee. So, it cannot be said, that in all the provisions of the Bill before us the court-fee has been increased. In some cases the court-fee is raised and in some cases, it is reduced. But we will have to find out whether there is any rational principle involved in this. As regards the valuation of immovable property the principle adopted in the existing Act is that ten times the land revenue payable was deemed to be the market value. Now, in the proposed Bill it is found that the actual market value will be deemed to be the value for computing

17th May 1954] [Sri K. Parthasarathy]

the court-fee and my first impression is that this is a matter involving hardship to the litigant public. There are many poor people who may find that the rich neighbour encroaches on his property and when he goes to the court, he may find that he will have to pay very high court-fee and it is possible that he will find it too expensive and he may not even choose to file a suit. There should be a distinction made between suits for the recovery of money and suits for the recovery of property. In suits for the recovery of money, there is the relationship between the parties to the suit which arises by contract, i.e., when they enter into a contract, they incidentally are aware that if there is a breach, they will go to court. When we are dealing with cases of trespass into property, there is no such relationship and a poor innocent party may find himself necessary to go to the Court to vindicate his right and get relief in the hands of the Court. So, I think the proposed provision may inflict hardship on poor litigants and it deserves consideration in the hands of the Select Committee.

“ In every such legislation even though we seek to take away the arbitrary manner in fixing the valuation for court-fees, ultimately we find that it will be necessary to provide for in some cases where arbitrary valuation is adopted. We find in this Bill that even though it attempts to do away with the arbitrary manner of fixing court-fees, in some provisions his arbitrary manner is adopted and I am sure in one instance at least it will inflict very much hardship on the litigant public.

“ With regard to the provisions in clause 32 relating to easement suits, it is said that the minimum value shall be deemed to be Rs. 500. For the ordinary agriculturists they are important suits. When the right to a well is in question or a right to take away water through the land, i.e., the right of channel is in question—they are all easement rights—if it is to be held that he must pay a court-fee of Rs. 500, I am sure it will be a hardship to him. After all the cost of sinking a well will only come to about Rs. 200 and if he has to file a suit for the declaration of his right, invariably he will have to pay on Rs. 500 as court-fee even if he has got only one-fourth or one-third right on the well. This will cause considerable hardship to him.

“ Sir, I do not wish to go into the details of the Bill. Even though there may be some good provisions in it, there are some provisions which may cause some hardship to the poor rural folk. 10 50 a.m.

“ I wholeheartedly welcome that provision in the Bill which provides for refund of court-fees in case there is a settlement between the parties in a suit. This is a very good provision. This has been talked about in the past few years and the lawyers will welcome this provision. It will give an incentive to the parties to compromise their cases even before the first hearing of the case is taken up. Generally speaking, I am sure that many of the provisions of the Bill will be welcomed. The Government have made a very good attempt in bringing forward this Bill. I

[Sri K. Parthasarathy] [17th May 1954]

congratulate the Hon. Minister who has moved the Bill and also the former Law Minister Sri Kuttikrishnan Nair who has also taken some pains in bringing the Bill."

SRI V. R. NAGARAJAN :—" Mr. Deputy Speaker, I would like to support the measure brought forward by the Government to amend and consolidate the law relating to court-fees and valuation of suits in the State of Madras. This measure is . . ."

SRI G. GOVINDAN :—" ஒரு தகவல் ; புத்தர் பிறந்த தினத்திற்கு மத்திய சர்க்காரில் விடுமுறை விட்டிருக்கிறார்கள். சென்னை சர்க்காரில் மட்டும் விடுமுறை விடாததற்கு காரணம் என்ன ? நமது சர்க்காருக்கும் மக்களுக்கும் புத்த பகவான் மேல் நம்பிக்கை இல்லை என்ற எண்ணமா ? அல்லது தமிழ் நாட்டில் புத்த மதத்தைச் சேர்ந்தவர்கள் இல்லை என்ற காரணமா என்பதை தெரிவிக்க விரும்புகிறேன்."

DEPUTY SPEAKER :—" I do not understand what the hon. Member has said. Anyway, it is not a point of order. Hon. Member Sri V. R. Nagarajan may now continue his speech."

* **SRI V. R. NAGARAJAN** :—" Sir, this measure is long overdue, as the original Act was passed as far back as 1870. It has already been pointed out in the proposed Bill itself that the present Court Fees Act is 80 years old. From time to time, in the actual working of the Act in courts right from the lowest civil court, viz., the District Munsif's Court to the highest Court, viz., the High Court, various difficulties, anomalies and doubts have been pointed out in the various judgments regarding the court-fees and the valuation of suits. This is a pure and simple fiscal measure. The Court Fees Act is one designed to fetch sufficient revenue to the Government from the disputes arising among the litigant public. The object of levying court-fees is to see that enough and adequate remuneration is received by the Government from the litigant public for the trouble, time, etc., that they spend, and for the application of the Judges to the cases that come before them for their disposal. Even though it is a fiscal measure which may be considered as a purely revenue-fetching measure, I am sure it is not intended that the Government should in any way profit out of it. The motive is pure and simple. It is a limited taxation measure brought forward with a view to getting just the revenue that is necessary commensurate with the nature of the case and also the time involved in considering and disposing it.

" On reading the various provisions contained in the Court Fees Act and the Suits Valuation Act, we have not been able to see whether there is any consistency in regard to several matters. Take for instance, partition suits. Hitherto it has been the practice to value the partition suit on the value of the share which is claimed by the plaintiff in his plaint. Suppose there is a Hindu Joint Family consisting of several co-parceners, say four co-parceners. If one of them goes to a court claiming his share, viz.,

17th May 1954] [Sri V. R. Nagarajan]

one-fourth share of the movable and immovable properties, according to the Bill, he will have to pay court-fees on the entire value of the property. This will cause considerable hardship to the public.

“ Sir, it will be too early now to say whether we should support the various provisions contained in the Bill or oppose some of them and all that. It is being referred to a Select Committee and it will be the work of the Select Committee to go through the wording of every clause of the Bill very carefully and to give their opinion. I hope the Bill with the opinion of the Select Committee will again come before this House and we will have another opportunity to have a further discussion on the opinion expressed by the Select Committee. I also hope there will be a full-dress debate. I am also in the Select Committee and I am thankful to the Government for giving me a place in it. Let the Select Committee consider the various provisions and give its opinion. For the present, I wholeheartedly welcome this measure which has been brought forward by the Government. On reading the various clauses contained in the Bill which seeks to amend and consolidate the law relating to Court-fees and valuation of suits, we find that the Government must have taken considerable pains to draft the Bill which contains provisions of far-reaching importance. As such, this House should have to go through those provisions very carefully after the Select Committee submits its report. With these words I welcome the Bill and commend the motion moved by the Hon. Minister for Law to the acceptance of the House.”

SRI C. KANDASAMY :—“ கனம் உதவி சபாநாயகர் அவர்களே, அநேக வகைகளில் மெம்பர்கள் பேசியிருக்கிறார்கள். எனது நண்பர் நாராயண நம்பியார் சட்டத்தில் அதிக பரிச்சயமில்லாது, என்னைப் போன்று சொந்த அபிப்பிராயத்தை தெரிவித்துப் பேசினார்கள். அவரவர்களுடைய சொந்தக் கருத்துக்களை இந்தச் சபை முன்பு தெரிவிக்க அனைவரும் கட்டமைப்பட்டிருக்கிறோம். இந்தச் சட்டத்தை இப்போது கொண்டு வந்திருப்பதன் காரணம் 1870-வருஷத்தில் இயற்றப்பட்ட கோர்ட்டுஸ் (Court Fees) சட்டத்திலும், 1887-ல் இயற்றப்பட்ட சூட் வாலியூவேஷன் (Suit Valuation) சட்டத்தையும் கடந்த 80 வருஷகாலத்திற்குப் பிறகு இன்று நிலைமைகளில் பல மாறுதல்கள் ஏற்பட்டிருப்பதைத் தகுந்தபடி திருத்தியமைத்து சட்டமாக்குவதற்காகக் கொண்டு வரப்பட்டிருக்கிறது. பொதுவாக இந்தச் சட்டத்தை இச்சபையில் கொண்டு வரப்பட்டதன் பிரதான அம்சம் சட்டத்தை மேல்வாரியாக திருத்தியமைப்பதற்காகவே. இப்படி சூழ்நிலையிலே மாறுதல் ஏற்பட்டதிலிருந்து இன்றைய சர்க்காரிடையே எந்த அளவுக்கு சூழ்நிலையிலே மாறுதல் ஏற்பட்டிருக்கிறது என்பதின் அடிப்படை உண்மை நன்கு புலப்படுகின்றது. அந்த அடிப்படையிலே சட்டங்களை மாற்றி அமைக்க வேண்டுமே தவிர, 1880-ம் வருஷத்திய சட்டத்தையும், 1870-ம் வருஷத்திய சட்டத்தையும் அடிப்படையாகக் கொண்டு, இன்றைய தினம் மேல்வாரியாக சட்டத்தை திருத்தியமைப்பது என்பது பிரயோஜனமில்லை. இந்த நோக்கத்தோடு இதை திருத்தி அமைக்கும் வகையில், 80 வருஷ அடிப்படையில் எந்த விதத்தில் Material Condition-ல் மாறுதல் அடைந்து வந்திருக்கிறது என்பது எனக்குத் தெரியவில்லை. இதைத்தான் சபையின் கவனத்திற்குக் கொண்டுவர விரும்புகிறேன். கோர்ட்டுக்குப் போகவேண்டுமென்றாலே கிராமத்திலுள்ள ஏழை மக்கட்கு, ஏழை விவசாயிகளுக்கு பெரிய பயம். சொத்து பிரித்துக் கொள்ளும் வழக்கிலே கோர்ட்டுக்குப் போனால் கூட இன்றைய தினம் குடியே முழுமூலம் போய்விடுமென்று பயப்படக்கூடிய அனுபவம் கிராம மக்களுக்கு ஏற்பட்டிருக்கிறது என்பதை முதலில் கூறிக்கொள்ள ஆசைப்படுகிறேன்.

11
a.m.

[Sri C. Kandasamy] [17th May 1954]

அங்கத்தினர் ராகவ முதலியார் அவர்கள் சொன்னதுபோல, இன்றைய தினம் கோர்ட்டில் நியாயம் வழங்குவதற்குப் பதில், நியாயம் விற்கக்கூடிய நிலைமைக்கு மாறிக்கொண்டு வருகிறது என்பதையும் குறிப்பிட விரும்புகிறேன். இந்த நிலைமையில் ஏழை மக்களுக்கு எங்கே நியாயம் கிடைக்கப் போகிறது? ஏழை மக்களுக்கு இன்றைய தினம் கோர்ட் சம்பந்தமான சட்டங்கள் கோர்ட் பீஸ் அல்லது சூட் வால்ட்யுவேஷன் சட்டம் குறைந்து இருந்தால் அது மிகவும் நன்றாக இருக்கும்.

“தவிர கிரிமினல் கேஸாக இருந்தாலும் அதிகச் செலவுகள் செய்ய வேண்டியிருக்கிறது. காப்பிகள் வாங்குதல் போன்ற பல வீண் செலவுகள் செய்யவேண்டியிருக்கிறது. இவைகளை கணக்கில் எடுத்துக்கொண்டு, ஏழை ஜனங்களுக்கு இருக்கக்கூடிய கஷ்டங்களையும், அந்த அளவுக்கு இருக்கக் கூடிய, சூழ் நிலையையும் கீழ்த்தட்டோடு பார்த்து, மக்களுக்கு குறைந்த செலவு ஆவதற்கான நியாயமாவது இந்த திருத்தியமைக்கப்பட்ட சட்டத்திலே இருக்கிறதா என்று பார்த்தால், அதுவும் இல்லை என்பதே என் அபிப்பிராயம். ஒரு சின்ன விஷயம் சொல்லுகிறேன். புருஷனால் விலக்கப் பட்ட ஒருவன் ஜீவனம்சம் வாங்குவதிலோ, சாதாரணமாக பெரிய பணக் காரர்களிடத்திலே சம்பள பாக்கிக்காக ஏழைகள் கேட்கக்கூடிய நிலைமையிலோ அவர்களுக்கு இச்சட்டம் சாதகமானதாக இல்லை. 100-க்கு இவ்வளவு என்று சொத்தின் மதிப்பு கணக்கிடப்படுகிறது. ஒரு ஜீவனம்சம் வழக்கில், தீர்ப்புப்படி மாதம் இவ்வளவு கொடுக்கப்பட வேண்டுமென்றிருந்தாலும், அதற்கும் சொத்து மதிப்பிட்டு 100-க்கு ஏழரை ரூபாய் கொடுத்த வேண்டுமென்ற நிலை ஏற்படுகிறது. அதன்படி 12 மாதங்களுக்கு கொடுக்கப்பட்ட தொகையில் ஒன்றிரண்டு மாதத் தொகையை இதற்கு செலவழித்து தான் மீதியை எடுத்துக் கொள்ளப்படுகிறது. ஆகையினாலே மொத்தத்திலே இதைக் குறைக்க வேண்டுமென்று சொல்லுகிறேன். ஏழை மக்களின் நிலைமையை கீழ்த்தட்டோடு பார்த்த, குறைந்த செலவிலே ஒரு சட்டம் அவர்களுக்காக கொண்டு வரப்படுமானால் மிகவும் நன்றாக இருக்கும். இதை வக்கீல் அங்கத்தினர்கள் எடுத்துக் கொண்டிருந்தால் நன்றாக இருக்குமென்று நினைக்கிறேன். இதை மாதிரி சம்பள பாக்கி. ஒரு பெரிய பணக் காரர்களிடத்திலோ அல்லது பெரிய நிலப் பிரபுக்களிடத்திலோ சம்பள பாக்கியை வாங்குவதற்கு கோர்ட்டுக்கு போக வேண்டுமானால், கோர்ட் பீஸ் குறைந்த செலவில் ஏற்படவேண்டும்.

“அடுத்தபடியாக, மார்க்கெட் வேல்யூ (Market value) வில் இந்த அரசாங்கம் மோசமான நிலையில் இருக்கிறது என்பதை சொல்ல விரும்புகிறேன். ஏனென்றால் சாதாரணமாக இந்த மார்க்கெட் வால்ட்யூவில் பலவித தில்லு முல்லுகள் ஏற்பட்டு, அதனால் பலர் பாதிக்கும்படியான நிலைமை ஏற்படுகிறது. மார்க்கெட் வால்ட்யூ அவ்வப்போது உயரவும், குறைவதுமான பல மாறுதல் ஏற்படுவதால் காலசட்டத்திலே இதனால் உயர்வதற்கும், பலர் பாதிக்கப் படவும் நேரிடுகிறது. இன்னும் சிலர் இதனால் கோர்ட்டுக்கு போகும்படியும் நேரிடுகிறது. இதைவிட ஒரு திட்டவட்டமான, யாரும் பாதிக்கக்கூடாத வகையிலே நியாயமான மார்க்கெட் வால்ட்யூ போட்டுவிட்டால் மிகவும் நன்றாக இருக்கும்.

“கிரிமினல் கேஸ்களில் சாதாரணமாக அரசியல் வக்கீல்கள், ஏழைகள் ஒன்றும் செய்ய முடியாத நிலையில் இருக்கும்போது உண்மையை நிரூபிக்க அவர்கள் பிரதிநிதிகளாக அனுப்பப்படுகிறார்கள். இது போல போலீஸ் தகராறுகளுக்கும் அவர்களை அனுப்பிவைக்க வேண்டும். கொலை வழக்குகளை நிரூபிக்க அரசாங்கமே செலவழித்து வக்கீல் வைத்துக்கொண்டு கேஸ்கள் நடத்தக்கூடியதை ஏற்கனவே நான் ஒப்புக் கொண்டிருக்கிறேன். இதைப் போலவே போலீஸ்காரர்கள் பல விஷயங்களில் தங்களுக்கு இருக்கக் கூடிய மாச்சரியத்தால், கேஸ்கள் வேண்டுமென்பதற்காக ஏழைகளை கொண்டு வந்து நிறுத்தி, அவர்களுக்கு சொத்து இல்லையென்ற காரணத்தால் கேஸ்கள் நடத்த முடியாமல், உண்மையை நிரூபிக்க முடியாமல் நிரபராதிகளாக இருப்பவர்களுக்கு அது சம்பந்தமான செலவை ஏற்று அவர்களுக்கு பாதுகாப்பு ஏற்படுத்த வேண்டுமென்று கூறிக்கொண்டு

17th May 1954] [Sri C. Kandasamy]

இந்த சட்டமானது வக்கீல்கள் சம்பந்தப்பட்ட சட்டம் என்பதை தெரிவித்துக் கொள்ளுகிறேன். இந்த சட்டத்தைப் புரிந்து கொள்ளக்கூடிய நிலைமையில் ஏழைகளின் செலவைக் குறைக்கக்கூடிய முறையில் இதை ஒரு செலக்ட் கமிட்டிக்கு வைத்து, பிரகடனப்படுத்தி, பொது ஜனங்கள் அனைவருக்கும் நன்மை ஏற்படக்கூடிய முறையில் திருத்தியமைக்கப்பட வேண்டுமென்று தெரிவித்துக் கொண்டு என்னுடைய உரையை முடித்துக் கொள்ளுகிறேன்.”

* SRI S. PANCHAKSHARAM :—“ Mr. Deputy Speaker. 11-05
Sir, I welcome this measure. If any reform was long overdue, it a.m.
was this Act and it had been giving rise endlessly to lot of confusion, not only to the litigant public, but also to the presiding Judges who were called upon to preside over tough questions of Court Fee Law. There are as many decisions as there have been Judges. There has been no agreement on any one position, with reference to Court-fee payable on suits relating to land. This is the first comprehensive attempt on the part of the Government, after several attempts have been made, to bring about uniformity by bringing this comprehensive piece of legislation, on a subject which has been giving rise to so much of controversy.

“ Sir, an attempt was made some 10 or 15 years ago, when a Committee or a person was appointed to go into the whole matter and to submit proposals for reforming this Act. Mr. Satyamurthy who was the Registrar of High Court in those days made an exhaustive report on the subject with various suggestions and various changes in the existing provisions of the Law. But somehow, the whole report was shelved and now the Government have come forward with this piece of legislation. The first thought that arises in me after going through the provisions of the Bill superficially is that a major portion of the recommendations made by Mr. Satyamurthy, even though not accepted but shelved, has not been included in the Bill by the present Government. One such recommendation made by him was this : In bringing about uniformity in the matter of court-fees, there will be some hardship caused in the matter of litigation so far as the litigants are concerned and also to the members of the Bar practising in the lowest courts; in order to obviate that difficulty, when bringing about uniformity between values of court-fees and also jurisdiction values, he sought to enhance the jurisdiction value of the subordinate courts to the tune of Rs. 5,000. That recommendation is now lost sight of. The result of this will be that hereafter no title suits relating to lands or houses will be filed in good numbers before the Munsif's Courts as has been the case hitherto. The price of house property as also land property has gone up considerably now. Under ordinary circumstances, in previous days, a man was able to file a suit for recovering possession of lands to the extent of 30 acres valuing the suit on the notional value under Section 7. Such a person has definitely to go now to the Sub-Court for litigation. Considering the present values, the Munsif's Courts will not have authority for any piece of land over one acre in extent. For, in these days when landed property is valued anywhere between Rs. 3,000 and Rs. 5,000 per acre in particular areas of course, there are barren areas, but in several areas

[Sri S. Panchaksharam] [17th May 1954]

in the State, one acre of land costs about Rs. 3,000 or Rs. 5,000. In such cases, the poor man who had to go before a Munsif's Court has necessarily to seek remedy from the higher Courts for relief. Such anomalies are there in trying to reform the present provisions of the Court Fees Act. There should not be an attempt made to take away a large portion of the jurisdiction vested in the Munsif's Court and vest it in a superior tribunal. Of course, there are good and bad features in a reform.

11-10 a.m. “ In trying to consolidate the two Acts, the most fundamental thing that the Government should remember is that this is principally a fiscal enactment. The provisions of this enactment should not give room for any doubt at all. This Bill is not free from this defect. There should not be any attempt at evasion or possibility of evasion. Even though an attempt to do away with evasion is made in the Bill, yet there is large scope for evasion. There has been an attempt at realising court-fee on the substance of the plaint and not on the clever language in which it is worded. Even though this attempt is sought to be put an end to, still there is scope for this habit to continue.

“ Sir, there are certain broad changes made in the law and these changes are welcome. One thing is that the difference between the small causes valuation of suits and the original suit valuations is sought to be done away with. This has given rise to a lot of uneasiness in the minds of the litigants and members of the Bar. Then *ad valorem* fee is made payable at a uniform rate. This is well worth the praise. It is also good that Section 7 of the Court Fees Act is sought to be completely overhauled. There are three sets of valuation which is recognised by the Court Fees Act, one real, another the notional value and the third the statutory valuation provided for in the Court Fees Act. For all these differences are not sought to be done away with. Then, Sir, there is a provision relating to setting aside of documents for which the suitor has to pay fees at the face value of the document. The Government have to think hundred times before they have such a provision. In India sham and nominal transactions are a common feature. Benami transactions are the order of the day. There are people—a brother or co-parcener or any other rival claimant to a property or a creditor—who prepare sham or nominal documents with a view to deceiving or defrauding their claimants. Such documents are brought into existence very frequently and every Court without exception in this State is called upon to decide on the nature of such documents. In doing so, the parties unnecessarily or unwarrantedly push up the value of the properties and execute documents. If the property is really worth Rs. 1,000 the documents show their value as Rs. 5,000 or Rs. 10,000. In such cases, if the parties want to have these documents or decrees set aside, the Court-fee on such sham and nominal transactions should not be based on the face value of the documents. It will work a great hardship on such persons if they are asked to pay court-fee on this basis. The very purpose of the Court Fees Act,

17th May 1954] [Sri S. Panchaksharam]

will be defeated if they are penalised for what they have done unwittingly. Under the present Act, it can be set aside easily. In such cases, the court-fee should be fixed and not the *ad valorem* fee.

“ There is another feature which appears to be objectionable. The enquiry which the courts are asked to get into over the question of jurisdiction is really a long-drawn-out one. I have known cases where on the preliminary point of court-fee, parties have been called upon to adduce evidence. Parties file hundreds of documents on both sides and the court has been called upon to decide on the value of the property and the courts with a view to seeing that these suits are sent up to the highest tribunal are always inclined to put a higher value on the property. In many cases, the whole thing has taken nearly ten days while it could have been done in an hour. I have seen this myself in two or three cases. It is a long-drawn-out process. Therefore, if the courts are asked to go into the whole point relating to value of the property and an elaborate process is laid down in the Bill for this purpose, they will be doing no other thing than going into the question of jurisdiction alone. No litigant and no defendant against whom a suit has been filed will keep quiet and if the question of jurisdiction is left to be decided by the court itself then a good length of time in a year will be wasted on settling the preliminary issue. The process should be simplified. My suggestion will be that the District Collector should be called upon to fix the value of lands and properties in particular areas. He will fix the values with reference to values of properties situate in similar areas in the district.

“ Sir, there are certain decisions with reference to court-fee payable in the Appellate Court which have been lost sight of in this Bill. As a matter of fact, there are several cases where people have easily evaded payment of fees. Even the small fee of Rs. 15 in a Munsif's Court and Rs. 100 in a Sub-Court is not paid at times. In several cases involving thousands of rupees, people evade the fee by paying a small sum only as court-fee. I hope that the Select Committee which will go into this Bill will go into the mortgage law thoroughly with reference to subsequent alienees, with reference to parties who want exoneration of particular items and those who want inclusion of particular items in the decrees, etc. These things have got to be looked into and rectified. I request the Select Committee to scrutinise the provisions of the Bill very carefully after going into the mass of conflicting decisions on the subject, particularly the decisions of the High Court and set right the law once and for all.”

* THE HON. SRI C. SUBRAMANIAM :—“ Mr. Deputy Speaker, Sir, I am grateful to the hon. Members who have made very valuable suggestions for removing some of the so-called anomalies they have found even in the draft Bill. But I may assure them that every clause in the Bill has been thoroughly examined

11-20
a.m.

[Sri C. Subramaniam] [17th May 1954]

from stage to stage by very experienced officers and Judges. I submit that the motion for circulating this Bill for eliciting public opinion is quite unnecessary, because even during the drafting stage, all important persons who are interested in the Court Fees Act were consulted, even though it cannot be said that public opinion as such was elicited. Not only the High Court Judges, but also District Judges and important and leading lawyers were consulted. It was only after such consultation that the various provisions of the Bill have been formulated. It was true that the late Satyamurthi of the Madras High Court was scrutinising the provisions of the Bill. After that, another Special Officer was appointed and the Bill was further scrutinised and finalised. The Board of Revenue, the High Court and the Advocate-General had been consulted in the matter. I submit that circulation for eliciting public opinion will only delay the passage of the Bill. It will be open to the Select Committee to invite memoranda on the subject from various bodies. It was said that the intention of the Government was to rush through the Bill even during the Select Committee stage. I may assure hon. Members that that is not the intention of the Government. If there is to be an immediate meeting of the Select Committee, it is only for the purposes of finalising the procedure to be adopted in the matter. I give the assurance to the hon. Members that the Government will not rush through this measure during the Select Committee stage. Whatever is necessary will be done. If it is necessary to elicit the opinion of Bar Association, we can do it and it can be done very expeditiously. After all, lawyers have been in possession of the provisions of this Bill for a long time and it should be possible for them to express opinion without any delay. Whatever we want can be done in the Select Committee stage and it is not necessary to circulate this Bill for the purpose of eliciting public opinion.

“As for the criticism against the increase of the Court-fees when the value of a suit exceeds Rs. 5,000, I think it is a justifiable increase. After all, the richer people should pay more. That is the accepted principle now. As the value of a suit goes up, why should the court-fee be reduced as at present? While the court-fee payable for suits of larger value is only 0.6 per cent, a litigant whose property is worth only 1,000 or 2,000 or 3,000 rupees is asked to pay $11\frac{1}{4}$ per cent. Therefore I do not think there can be any objection to the increase in the court-fee when the value of the suit exceeds Rs. 5,000. While for the higher value suits, we have increased the court-fee, for the lower value suits we have reduced it from $11\frac{1}{4}$ per cent to $7\frac{1}{2}$ per cent.

“With reference to the valuation of land, certain objections have been raised. For certain classes of immovable property, the Court Fees Act lays down market value as the basis for computation of court-fees. But in the case of land, the Act lays down that the court-fee shall be fixed at ten times the annual land

17th May 1954] [Sri C. Subramaniam]

revenue payable for that land. This is an anomaly that has been pointed out. It is better to apply the market value to lands also, as that criterion applies to other immovable properties.

"I am sure, the House will accept the reasonableness of the suggestions made in this Bill. The whole matter will be considered by the Select Committee and I am sure we will arrive at just and correct decisions. Therefore it is not necessary for me to answer at this stage the other criticisms that have been made on the floor of this House with regard to this Bill. I am sure all these points will be taken up in the Select Committee. I shall try to meet those points and see if any changes are necessary in the propositions of the Bill. In view of the fact that it will be open to the Select Committee to invite opinions from various bodies, it is unnecessary to circulate this Bill for eliciting public opinion as such. Circulation will only delay the coming into operation of this Bill at an early date. Therefore I am sure Mr. Narayana Kurup will withdraw his amendment and accept the motion for referring the Bill to a Select Committee."

* SRI M. NARAYANA KURUP :—"Sir, while I welcome the assurance given by the Hon. Minister who introduced the Bill that full opportunity will be given in the Select Committee for the Bar Associations and the public to ventilate their views, I still remain unconvinced that it is not necessary to circulate this Bill for public opinion. The difference is this. In the Hon. Minister's opinion, the public have been consulted without their knowing it. I want to make it sure that we are doing things with the full knowledge, co-operation and consent of the public. When he says that legal experts like the High Court Judges, District Judges and lawyers have been consulted, I believe him fully, because a measure of this sort could not have been brought without expert advice from such persons. My complaint is that we have done a thing, but we have not done it properly."

DEPUTY SPEAKER :—"I want to know whether the hon. Member is withdrawing his amendment."

SRI M. NARAYANA KURUP :—"I am replying."

DEPUTY SPEAKER :—"The hon. Member has no right of reply."

SRI M. NARAYANA KURUP :—"As the mover of the amendment, I thought I had a right of reply and that was why I was replying. I am not withdrawing my amendment."

DEPUTY SPEAKER :—"The question is—

'That the Madras Court-fees and Suits Valuation Bill, 1954, be circulated for eliciting public opinion.'

The motion was put and lost.

[17th May 1954]

DEPUTY SPEAKER :—“ The question is—

‘ That the Madras Court-fees and Suits Valuation Bill, 1954, be referred to a Select Committee consisting of the following Members :—

The Hon. Sri M. A. Manickavelu Naicker.

Sri K. P. Kuttikrishnan Nair.

„ K. Parthasarathy.

„ K. Venkataramana Gowda.

„ N. Gopala Menon.

„ P. Selvaraj.

„ B. Vaikunta Baliga.

„ V. R. Nagarajan.

„ Kunhi Mohamed Shafee.

„ M. Narayana Kurup.

„ S. Ramalingam.

„ P. K. Gopalakrishnan.

„ P. Rangaswami Reddiar.

„ E. L. Raghava Mudaliar.

The Hon. Sri C. Subramaniam.’ ”

The motion was put and carried.

DEPUTY SPEAKER :—“ Mr. Speaker nominates the Hon. Sri C. Subramaniam, Finance Minister, as the Chairman of the Select Committee.

“ The House will now adjourn and meet again at 8 a.m. to-morrow (18th May 1954).”

The House then adjourned.